

Angel Carrazco, Jr. (SBN 230845)
Kent M. Henderson (SBN 139530)
Christopher L. Holm (SBN 308446)

CARRAZCO LAW, A.P.C.

18301 Irvine Boulevard
Tustin, CA 92780
Telephone: 714-541-8600
Facsimile: 714-541-8601

Email: angel@carrazcolawapc.com
hendolaw@gmail.com
chris@carrazcolawapc.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

D.S., a minor by and through his
guardian *ad litem* Elsa Acosta,
individually and as successor-in-
interest to William Salgado, et.al.

Plaintiffs,

v.

CITY OF HUNTINGTON PARK;
et.al.

Defendants

AND CONSOLIDATED ACTION

Case No. 2:23-cv-09412 CBM (AGR) [*lead case*]

(*Consolidated with 2:24-cv-04898 CBM (AGR)*)

Assigned to: District Judge: Consuelo B. Marshall; Magistrate Judge: Alicia G. Rosenberg

**PLAINTIFFS' NOTICE OF
OPPOSITION AND MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

[Plaintiffs' Response to Separate Statement, Declarations, and Evidence filed concurrently herewith]

Date: April 1, 2025

Time: 10:00 a.m.

Courtroom: 8D

1 **TO THE HONORABLE COURT, DEFENDANTS, AND THEIR**
2 **ATTORNEYS OF RECORD: PLEASE TAKE NOTICE** that, on April 1, 2025,
3 at 10:00 a.m. in Courtroom 8D, Plaintiffs WILLIAM OMAR CASTILLO
4 MIRANDA; JUANA MARIA MIRANDA; O.C.E. a minor by and through their
5 Guardian ad Litem, EUGENIA GUADELUPE ESPINOZA SALMERON;
6 EUGENIA GUADELUPE ESPINOZA SALMERON; OSMAR ANTONIO
7 CASTILLO BLANDON; and KARLA VANESSA BLANDON; will and hereby
8 do oppose Defendants' Motion for Summary Judgment. This Opposition is based
9 on the Memorandum of Points and Authorities, Plaintiffs' Response to Defendants'
10 Undisputed Material Facts and Plaintiffs' Undisputed Material Facts, the papers
11 and pleadings on file in this case, and such other authority as the Court may decide.
12
13
14
15
16
17
18
19
20
21
22
23
24

TABLE OF CONTENTS

I.	<u>INTRODUCTION</u>	1
A.	Motions for Summary Judgment Challenging Standing Require the Judge to Only Decide Issues of Fact Necessary to Make the Standing Determination	3
B.	Defendants Have Failed to Demonstrate the Absence of Any Triable Issue of Fact.	4
C.	Plaintiffs’ State Law Claims Are Sufficiently Pled Under the Government Claim and Operative Complaint.	7
D.	Plaintiffs’ First Amended Complaint Conforms to Federal Pleading Requirements	8
II.	<u>THE STATE CLAIMS</u>	14
A.	The First Amended Complaint Sufficiently Pleads the Claims in this Case.	15
B.	The Decedent’s Father Has Standing to Assert State Law Claims ...	17
C.	The Decedent’s Brother, Osmar Antonio Castillo Bandon, Has Standing to Assert State Law Claims	17
D.	The Decedent’s Youngest Brother, O.C.E., and Step-Mom Have Standing to Assert State Law Claims	17
E.	Plaintiffs Concede that Juana Miranda and Karla Bandon Were Not Present at the Scene and Therefore Likely Cannot Assert Negligent Infliction of Emotional Distress Claim.	19
III.	<u>FOURTEENTH AMENDMENT CLAIMS</u>	19
A.	The Decedent’s Father Has Standing to Assert Fourteenth Amendment Claims.	20
B.	The Decedent’s Informal Adoptive Mother Has Standing to Assert Fourteenth Amendment Claims.	23
C.	Plaintiffs Concede that the Siblings of the Decedent May Not Have Standing to Assert Fourteenth Amendment Claims.	24
IV.	<u>CONCLUSION</u>	25

TABLE OF AUTHORITIES

FEDERAL CASES

<i>Crayton v. Concord EFS, Inc. (In re ATM Fee Antitrust Litig.)</i> (9 th Cir. 2012) 686 F.3d 741, 747, 748.....	3, 4, 5
<i>Warth v. Seldin</i> (1975) 422 U.S. 490, 498-99.....	3
<i>Del. Valley v. Johnson & Johnson</i> (9 th Cir. 2008) 523 F.3d 1116, 1119.....	3, 4
<i>Haase v. Sessions</i> (D.C. Cir. 1987) 835 F.2d 902, 904, 266 U.S. App. D.C. 325	3, 4
<i>Duke Power Co. v. Carolina Envtl. Study Group, Inc.</i> (1978) 438 U.S. 59, 72, 98 S. Ct. 2620, 57 L. Ed. 2d 595	3
<i>Lujan v. Defenders of Wildlife</i> (1992) 504 U.S. 555, 561, 112 S. Ct. 2130, 119 L. Ed. 2d 351.....	3
<i>Bischoff v. Osceola Cnty., Fla.</i> (11th Cir. 2000) 222 F.3d 874, 878-80.....	4
<i>Kling v. Hallmark Cards Inc.</i> (9th Cir. 2000) 225 F.3d 1030, 1039	4
<i>Celotex Corp. v. Catrett</i> (1986) 477 U.S. 317, 323-24.....	4, 5
<i>T.W. Elec. Serv. v. Pacific Elec. Contractors Ass’n</i> (9th Cir. 1987) 809 F. 2d 626, 630	5
<i>First Nat’l Bank v. Cities Serv. Co.</i> (1968) 391 U.S. 253, 288-89	5
<i>Corales v. Bennett</i> (9th Cir. 2009) 567 F.3d 554, 562.....	5
<i>Green v. City and County of San Francisco</i> 751 F.3d 1039 (9th Cir. 2014)	5
<i>Anderson v. Liberty Lobby, Inc.</i> (1986) 477 U.S. 242, 248.....	5
<i>S.E.C. v. M & A W., Inc.</i> (9th Cir. 2008) 538 F.3d 1043, 1054-55	5
<i>SEC v. Koracorp Indus., Inc.</i> (9th Cir. 1978) 575 F.2d 692, 699.....	5
<i>Nationwide Life Ins. Co. v. Bankers Leasing Ass’n, Inc.</i> (2nd Cir. 1999) 182 F.3d 157.....	6
<i>Nevada v. Watkins,</i> (9 TH Cir. 1990) 914 F.2d 1545, 1560.....	6, 15
<i>United States v. Birtle</i> (9 th Cir. 1986) 792 F.2d 846, 848.....	6, 15
<i>Thompson v. Commissioner</i>	

1	(9 th Cir. 1980) 631 F.2d 642, 649.....	6, 15
	<i>Conley v. Gibson</i>	
2	(1957) 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80.....	9, 10
	<i>Swierkiewicz v. Sorema N. A.</i>	
3	(2002) 534 U.S. 506, 508.....	9
	<i>Jenkins v. McKeithen</i>	
4	(1969) 395 US 411, 421, 89 S.Ct. 1843, 1849.....	9
	<i>Gilligan v. Jamco Develop. Corp.</i>	
5	(9 th Cir. 1997) 108 F3d 246, 249.....	9
	<i>McCalden v. California Library Ass’n</i>	
6	(9 th Cir. 1990) 955 F2d 1214, 1219.....	10
	<i>Ayers v. United States</i>	
7	(6 th Cir. 2002) 277 F3d 821, 829.....	10
	<i>Holman v Indiana</i>	
8	(7 th Cir. 2000) 211 F3d 399, 407.....	10
	<i>Coleman v. Standard Life Ins. Co.</i>	
9	(ED CA 2003) 288 F.Supp.2d 1116, 1120.....	10
	<i>Independent Enterprises Inc. v. Pittsburgh Water & Sewer Authority</i>	
10	(3 rd Cir. 1997) 103 F3d 1165, 1175.....	10, 11
	<i>Brookhaven Landscape & Grading Co., Inc. v. J.F.Barton Contracting Co.</i>	
11	(11 th Cir. 1982) 676 F2d 516, 523.....	11
	<i>Henry v. Daytop Village, Inc.</i>	
12	(2 ^d Cir. 1994) 42 F3d 89, 95.....	11
	<i>PAE Government Services, Inc. v. MPRI, Inc.</i>	
13	(9 th Cir. 2007) 514 F.3d 856.....	11
	<i>American Int’l Adjustment Co. v. Galvin</i>	
14	(7 th Cir. 1996) 86 F3d 1455, 1460.....	11
	<i>Sistrunk v. City of Strings ville</i>	
15	(6 th Cir.1996) 99 F.3rd 194, 197.....	13
	<i>Kline v. Rogers</i>	
16	(6 th Cir.1996) 87 F.3rd 176, 179	13
	<i>Wright v. MetroHealth Med. Ctr.</i>	
17	(6 th Cir.1995) 58 F.3rd 1130, 1138	13, 14
	<i>Columbia Natural Res., Inc. v. Tatum</i>	
18	(6 th Cir.1995) 58 F.3rd 1101, 1109.....	13
	<i>In re DeLorean Motor Co.</i>	
19	(6 th Cir.1993) 991 F.2d 1236, 1240.....	13
	<i>Mayer v. Mylod</i>	
20	(6 th Cir.1993) 988 F.2d 635, 638.....	13
	<i>Johnson v. Bay Area Rapid Transit Dist.</i>	
21	(9 th Cir. 2013) 724 F.3d 1159, 1169.....	19, 20
22		
23		
24		

1	<i>Smith v. City of Fontana</i>	
	(9th Cir. 1987) 818 F.2d 1411, 1418.....	19
2	<i>Hodgers-Durgin v. de la Vina</i>	
	(9th Cir. 1999) 199 F.3d 1037.....	19
3	<i>Kelson v. City of Springfield</i>	
	(9th Cir. 1985) 767 F.2d 651, 654.....	19
4	<i>Daniels v. Williams</i>	
	(1986) 474 U.S. 327, 106 S.Ct. 662, 88 L.Ed.2d 662.....	19
5	<i>Smith v. City of Fontana</i>	
	(9 th Cir. 1987) 818 F.2d 1411, 1418.....	20
6	<i>Strandberg v. City of Helena</i>	
	(9th Cir. 1986) 791 F.2d 744, 748.....	20
7	<i>Khachatryan v. Blinken</i>	
	(9 th Cir. 2021) 4 F.4 th 841, 863.....	20
8	<i>Lee v. City of Los Angeles</i>	
	(9th Cir. 2001) 250 F.3d 668, 685.....	20
9	<i>Ward v. City of San Jose</i>	
	(9th Cir. 1991) 967 F.2d 280, 283.....	20
10	<i>Wheeler v. City of Santa Clara</i>	
	(9th Cir. 2018) 894 F.3d 1046, 1058.....	20
11	<i>Kirkpatrick v. County of Washoe</i>	
	(9th Cir. 2016) (<i>en banc</i>) 843 F.3d 784, 789.....	21
12	<i>Fosbinder v. Cty. Of San Diego</i>	
	2024 U.S. Dist. LEXIS 197571.....	22
13	<i>Tylena M. v. Heartshare Children’s Servs.</i>	
	(S.D.N.Y. 2005) 390 F. Supp. 2d 296, 319.....	23
14	STATE CASES	
15	<i>Hernandez v. City of Stockton</i>	
	(2023) 90 Cal. App. 5 th 1222, 1231.....	7, 8
16	<i>Stockett v. Association of Cal. Water Agencies Joint Power Ins. Authority</i>	
	(2004) 34 Cal.4 th 441, 446.....	7
17	<i>DiCamppli-Mintz v. County of Santa Clara</i>	
	(2012) 55 Cal.4 th 983, 991.....	7
18	<i>Thing v. La Chusa</i>	
	(1989) 48 Cal. 3d 644, 668.....	15, 17
19	<i>Wilks v. Hom</i>	
	(1992) 2 Cal.App.4 th 1267, 1271.....	18
20	STATUTES	
21	U.S. Const. amend. XIV, § 1.....	19
22	42 U.S.C. § 1983.....	19
23	Fed. R. Civ. P. 56(a)	3
24		

1	Fed. R. Civ. P. 56(c)	
	Fed. R. Civ. P. 8(a)(2)	8
2	Fed. R. Civ. P. 8(d)(1)	9, 10
	Fed. R. Civ. P. 8(d)(2)	11
3	Fed. R. Civ. P. 12(b)(6)	13
	Government Claims Act, § 910.....	8
4	California <u>Government Code</u> §§ 815.2, 820, 825.....	11, 12
	Uniform Parentage Act § 7601.....	24
5	Uniform Parentage Act § 7610.....	22, 23
6	OTHER AUTHORITIES	
	5 C. Wright & A. Miller, Federal Practice and Procedure § 1216, pp. 235-236 (3d	
7	ed. 2004)	9
8	<i>FRCP Appendix of Forms, Official Form 11</i> (“Complaint for Negligence”).....	10

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

As a threshold matter, Defendants failed to file their Motion for Summary Judgment in the correct case, and on that basis alone, it should be denied. In fact, the death certificate Defendants request Judicial Notice of actually defeats their MSJ as it lists the "informant's name," as "WILLIAM CASTILLO, **FATHER.**" (**Emphasis Added**).

Plaintiffs filed the operative First Amended Complaint on July 29, 2024. DOC # 12. The Court then consolidated the cases on September 3, 2024 and ordered that "**All filings will now be filed in the lead case** CV 23-9412-CBM(AGRx). DOC #38 (**emphasis added**). Defendants then filed their Answer to the First Amended Complaint on September 17, 2024 in the lead case, as ordered by the Court, which implies the Defendants were aware of the consolidation and that all documents should be filed in the lead case. DOC #39.

Nonetheless, **Defendants violated the Court's order** and filed the Motion for Summary Judgment in Case No. 2:24-cv-04898 CBM (AGR). DOC #26. On this basis alone, Plaintiffs have not been called to the correct court and the Motion for Summary Judgment should be denied. Regardless, Defendants' Motion for Summary Judgment fails on the merits to shift the burden from the Defendants to the Plaintiffs and fails to show that there is no genuine issue of material fact.

In fact, Defendants' Motion for Summary Judgment attacks only standing, the government claim, and the existence of Negligent Infliction of Emotional Distress as a separate tort. It does not attack the merit of Plaintiffs' claims and asks

1 the judge to make a decision of law based only on the Defendants' facts as they
2 assert them. In fact, Defendants have stipulated to not file a motion for summary
3 judgment in the lead case of the surviving children plaintiffs, whose First Amended
4 Complaint contains a negligence claim for relief. [DOC #25, Claim #5 for
5 Negligence, and DOC #48, Stipulation, Page 4, Lines 1-8] The reality is the
6 opposite, that the facts should be viewed in the light most favorable to the
7 nonmoving party, and the only facts that should be examined by the Court are ones
8 that bear on the issue of standing.

9 Defendants' Motion for Summary Judgment ("MSJ") relies on their own
10 version of the facts, which Plaintiffs vehemently dispute. They assert that Decedent
11 William Salgado's biological father William Castillo lacks a father's rights for loss
12 of familial relations under the 14th amendment because he was adopted by his
13 grandmother (there was no formal adoption). At the same time, they assert that the
14 grandmother who allegedly adopted him lacks the same rights under the 14th
15 amendment (even though she helped raise him). They claim the brothers forfeited
16 their rights by failing to file a government claim for their claims, although they did,
17 and that the Plaintiffs failed to sufficiently plead negligence, which is not true
18 under federal pleading requirements. In short, the Defendants plead their own
19 version of the truth, which conveniently leaves none of the family members with
20 rights under the law.¹

21
22 ¹ In reality, even taking the facts as the Defendants assert them, William Castillo still has rights
23 to the state claims even after the alleged adoption because Decedent's adoptive mother being the
24 grandmother of the Decedent would make William Castillo the brother of William Salgado, and
therefore he would still have standing to assert the negligent infliction of emotional distress
claims. Regardless, they are close relatives who have suffered a severe loss, and Defendants are
attempting to dispose of this case on technical legal issues despite being technically wrong.

A. Motions for Summary Judgment Challenging Standing Require the Judge to Only Decide Issues of Fact Necessary to Make the Standing Determination.

Standing is a question of law for the Court to decide. *Crayton v. Concord EFS, Inc. (In re ATM Fee Antitrust Litig.)* (9th Cir. 2012) 686 F.3d 741, 747, 748; citing *Warth v. Seldin* (1975) 422 U.S. 490, 498-99; *Del. Valley v. Johnson & Johnson*, 523 F.3d 1116, 1119; *see also Haase v. Sessions*, 835 F.2d 902, 904, 266 U.S. App. D.C. 325 (D.C. Cir. 1987) ("[T]he ultimate responsibility to ensure subject matter jurisdiction always lies with the court, not the parties.").

In the 9th Circuit Court of Appeals opinion *Crayton v. Concord EFS, Inc.*, the Court continued: "Because the court (and not a jury) decides standing, the district court must decide issues of fact necessary to make the standing determination. *See Duke Power Co. v. Carolina Env'tl. Study Group, Inc.*, 438 U.S. 59, 72, 98 S. Ct. 2620, 57 L. Ed. 2d 595 (1978)

However, when standing is challenged on summary judgment, **"[t]he court shall [not] grant summary judgment** if the movant shows that there is [a] genuine dispute as to **any material fact**" *Brennan v. Concord EFS, Inc.*, (9th Cir. 2012) 686 F.3d 741 (**emphasis added**). Fed. R. Civ. P. 56(a); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992) ("[E]ach element [of standing] must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, i.e., with the manner and degree of evidence required at the successive stages of the litigation.")." *Crayton v. Concord EFS, Inc. (In re ATM Fee Antitrust Litig.)* (9th Cir. 2012) 686 F.3d 741, 748.

1 Therefore, summary judgment is inappropriate without the district court
2 resolving the factual dispute any time there is a genuine issue of material
3 fact. *Crayton v. Concord EFS, Inc. (In re ATM Fee Antitrust Litig.)* (9th Cir. 2012)
4 686 F.3d 741, 747; citing *Bischoff v. Osceola Cnty., Fla.*, 222 F.3d 874, 878-80
5 (11th Cir. 2000); *see also Haase*, 835 F.2d at 907, 910.

6 Here, there is a genuine dispute as to the material fact of whether William
7 Omar Castillo Miranda ("William Castillo") and Juana Maria Mendoza ("Juana
8 Mendoza") have claims for loss of familial relations. As will be shown in this
9 Opposition, both have a sufficient basis for their 14th Amendment claims, William
10 Castillo has a claim for NIED, and the other Plaintiffs, with the exception of Karla
11 Vanessa Blandon, have sufficient bases for their state law claims.

12 **B. Defendants Have Failed to Demonstrate the Absence of Any Triable
Issue of Fact.**

13 When a district court determines standing on summary judgment (as is the
14 case here), "[w]e must determine [de novo], viewing the evidence in the light most
15 favorable to the nonmoving party, whether there are any genuine issues of material
16 fact and whether the district court correctly applied the relevant substantive
17 law." *Del. Valley v. Johnson & Johnson*, 523 F.3d 1116, 1119. In the absence of
18 genuine issues of material fact, we may affirm the district court's summary
19 judgment "on any ground supported by the record, regardless of whether the
20 district court relied upon, rejected, or even considered that ground," *Kling v.*
21 *Hallmark Cards Inc.*, 225 F.3d 1030, 1039 (9th Cir. 2000), if "the movant is
22 entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

1 Under F.R.C.P. Rule 56, Summary Judgment exists to isolate and dispose of
2 factually unsupported claims. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24
3 (1986). Summary judgment is appropriate when there are no genuine issues of
4 material fact, and the moving party is entitled to judgment as a matter of law.
5 F.R.C.P. Rule 56(a). A ‘material’ fact is one relevant to an element of a claim or
6 defense and whose existence might affect the outcome of the suit. *T.W. Elec. Serv.*
7 *v. Pacific Elec. Contractors Ass’n*, 809 F. 2d 626, 630 (9th Cir. 1987). The party
8 asserting the existence of a material fact must show “sufficient evidence supporting
9 the claimed factual dispute . . . to require a jury or judge to resolve the parties’
10 differing versions of the truth at trial.” *Id.* (quoting *First Nat’l Bank v. Cities Serv.*
11 *Co.*, 391 U.S. 253, 288-89 (1968)). Motions for Summary Judgment are
12 appropriate only if, taking the evidence and all reasonable inferences drawn
13 therefrom in the light most favorable to the nonmoving party, there are no genuine
14 issues of material fact and the moving party is entitled to judgment as a matter of
15 law. *Corales v. Bennett*, 567 F.3d 554, 562 (9th Cir. 2009); *Green v. City and*
16 *County of San Francisco*, 751 F.3d 1039 (9th Cir. 2014). A fact is material when it
17 affects the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242,
18 248, (1986). A factual dispute is “genuine” if the evidence is such a reasonable jury
19 could return a verdict for the nonmoving party. *Celotex Corp. v. Catrett*, 477 U.S.
20 317 (1986). The 9th Circuit recognizes “that summary judgment is singularly
21 inappropriate where credibility is at issue.” *S.E.C. v. M & A W., Inc.*, 538 F.3d
22 1043, 1054-55 (9th Cir. 2008) (quoting *SEC v. Koracorp Indus., Inc.*, 575 F.2d
23 692, 699 (9th Cir. 1978)). The opposition evidence may consist of declarations,
24 admissions, evidence obtained through discovery and matters judicially noticed.

1 FRCP 56(c); *Celotex Corp. v. Catrett*, 477 US 317 (1986). The non-movant must
2 designate specific facts showing a genuine issue for trial. FRCP 56(c).

3 Because summary judgment is a “drastic device,” cutting off a party’s right
4 to present its case to a trier of fact, the moving party bears the “heavy burden” of
5 demonstrating the absence of any triable issue of material fact. *Nationwide Life*
6 *Ins. Co. v. Bankers Leasing Ass’n, Inc.* (2nd Cir. 1999) 182 F.3d 157.

7 Defendants have apparently not disputed negligence in their Motion for
8 Summary Judgment, instead focusing on what they claim is a failure to file a
9 government claim (although the Plaintiffs did), and a lack of standing for the
10 Plaintiffs on their Fourteenth Amendment and Negligent Infliction of Emotional
11 Distress Claims. However, there are clear issues of material fact, including the
12 relationship between William Castillo and his son William Salgado, and regarding
13 the relationships of the parties.

14 In fact, Defendants Motion for Summary Judgment has very little about the
15 actual events giving rise to this case. The Defendants implicitly admit that there are
16 issues of material fact regarding whether the shooting was negligent by not
17 attacking the first prong of a negligent infliction of emotional distress claim. They
18 claim that Plaintiffs instead did not claim negligence in their government claim
19 (they did, as outlined below), to try and dispose of Plaintiffs’ claims without
20 discussing their merit.

21 The 9th Circuit follows the rule that new issues cannot be raised for the first
22 time in reply briefs because it would be unfair to the opposers who have no
23 advantage of briefing the issue. *Nevada v. Watkins*, 914 F.2d 1545, 1560; citing
24 *United States v. Birtle* (9th Cir. 1986) 792 F.2d 846, 848 (quoting *Thompson v.*

1 *Commissioner* (9th Cir. 1980) 631 F.2d 642, 649, *cert. denied* 452 U.S. 961, 101 S.
2 Ct. 3110, 69 L. Ed. 2d 972 (1981)). Therefore, Defendants cannot raise substantive
3 issues related to the shooting in their reply, as they have not raised that issue in the
4 moving papers.

5 **C. Plaintiffs' State Law Claims Are Sufficiently Pled Under the**
6 **Government Claim and Operative Complaint.**

7 On the first page of Plaintiffs' Government Claim, underlined in the first
8 paragraph, Plaintiffs assert general negligence against the Defendants. **Exhibit No.**
9 **1, Page 1, ¶ 1.** As stated in Plaintiffs' Government Claim, the Plaintiffs include
10 William Omar Castillo Miranda, Omar Antonio Castillo Blandon, O.C.E., and
11 Juana Maria Miranda. *Id.* In the Government claim, the Plaintiffs are asserting
12 claims for damages including pain and suffering. **Exhibit No. 1, Government**
13 **Claim, Page 2, Heading 4., ¶ 2.** The Plaintiffs also asserted in the Government
14 Claim that they witnessed the events and shooting unfold. *Id.* The Plaintiffs also
15 asserted in their government claim that they were making State and Federal claims
16 for general damages, including for pain and suffering. **Exhibit No. 1, Government**
17 **Claim, Page 2, Heading 4., ¶ 3, 2.** As to their general damages, the Plaintiffs
18 claimed their own "past and future physical, mental, and emotional pain and
19 suffering in an amount in excess of the jurisdictional minimum." **Exhibit No. 1,**
20 **Government Claim, Pages 3-4, Heading 7, ¶ 3, 2.**

21 Under State Theories of Liability, the Plaintiffs in their Government Claim
22 submitted to the Defendants, list negligence. **Exhibit No. 1, Government Claim,**
23 **Page 3, "State Theories of Liability", Heading C.** Significantly, the Government
24 claim quotes numerous provisions of the California Government Code, including

Gov. Code Sections 815.2, 820 which is for the negligence of a public employee in the course and scope of employment. **Exhibit No. 1**, *Page 1, supra*.

The purpose of a Government Claim under the Government Claims Act is “to provide the public entity sufficient information to enable it to adequately investigate the claims and to settle them, if appropriate, without the expense of litigation.” *Hernandez v. City of Stockton* (2023) 90 Cal. App. 5th 1222, 1231; citing *Stockett v. Association of Cal. Water Agencies Joint Power Ins. Authority* (2004) 34 Cal.4th 441, 446; see *DiCampli-Mintz v. County of Santa Clara* (2012) 55 Cal.4th 983, 991. It is not subject to the same requirements as pleadings in court such as the Federal Rules of Civil Procedure, but instead must follow the mandatory requirements of the Government Claims Act.

Under the Government Claims Act, the Government Claim must include the date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted, a general description of the injury, damage or loss incurred so far as it may be known at the time of presentation of the claim, and the name or names of the public employee or employees causing the injury, damage, or loss, if known. *Hernandez v. City of Stockton* (2023) 90 Cal. App. 5th 1222, 1231; *Government Claims Act, Section 910*.

Here, the Government Claim included the date, October 30, 2022, the exact address, and the fact that it was police officer employed by Huntington Park Police Department, a part of City of Huntington Park, who shot and killed Decedent William Rene Salgado Miranda. It also claimed that the claimants witnessed the events, were surviving family members of the Decedent, and were asserting claims for loss of comfort and society.

1 The Government Claim asserted the exact claims for negligence, along with
2 all of the supporting evidence required to assert negligent infliction of emotional
3 distress, that Defendants' call for in their MSJ. Therefore, Defendants' MSJ as to
4 the state claims should be denied, as Plaintiffs' Government Claim provided
5 Defendants sufficient information to investigate the claim.

6 **D. Plaintiffs' First Amended Complaint Conforms to Federal Pleading
Requirements.**

7 Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain
8 statement of the claim showing that the pleader is entitled to relief," in order to
9 "give the defendant fair notice of what the ... claim is and the grounds upon which
10 it rests," *Conley v. Gibson*, 355 U.S. 41, 47, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957).
11 Rule 8(a)(2) also only requires "a demand for the relief sought, which may include
12 relief in the alternative or different types of relief." Factual allegations must only
13 be enough to raise a right to relief above the speculative level, see 5 C. Wright &
14 A. Miller, *Federal Practice and Procedure* § 1216, pp. 235-236 (3d ed.2004)
15 (hereinafter *Wright & Miller*) ("[T]he pleading must contain something more ...
16 than ... a statement of facts that merely creates a suspicion [of] a legally cognizable
17 right of action"), on the assumption that all the allegations in the complaint are true
18 (even if doubtful in fact), see, e.g., *Swierkiewicz v. Sorema N. A.* (2002) 534 U.S.
19 506, 508.

20 Pleadings are construed liberally in favor of the pleader, and in challenging
21 the sufficiency of a complaint, all of its material allegations are taken as true.
22 *Jenkins v. McKeithen* (1969) 395 US 411, 421, 89 S.Ct. 1843, 1849; *Gilligan v.*
23
24

1 *Jamco Develop. Corp.* (9th Cir. 1997) 108 F3d 246, 249 – Rule 8 contains “a
2 powerful presumption against rejecting pleadings for failure to state a claim”.

3 The following standards apply generally to pleadings in federal court:

4 1) “each allegation must be simple, concise, and direct. No technical form is
5 required.” FRCP 8(d)(1); 2) Unlike practice in many states, the Federal Rules do
6 not draw distinctions between pleading facts, ultimate facts, or conclusions of law.
7 Subject to a few exceptions (none of which apply here), conclusory allegations are
8 perfectly proper in federal actions. For example, the complaint may allege that
9 defendant “negligently drove a motor vehicle against plaintiff” resulting in a
10 specific injury. See *FRCP Appendix of Forms, Official Form 11* (“Complaint for
11 Negligence”).

12 Throughout Defendant’s MSJ, Defendants attack Plaintiffs’ First Amended
13 Complaint for not stating a plausible cause of action. In fact, Plaintiffs have given
14 much more factual detail than required by the Federal Rules. Plaintiffs have
15 alleged specific duties owed, specific acts or omissions, specific theories of breach
16 of duty and specific damages caused by the breach of duty, and specific facts in
17 support of these allegations.

18 Moreover, a complaint may contain two or more statements of a claim for
19 relief “alternatively or hypothetically, either in a single count...or in separate
20 ones.” [FRCP 8(d)(2); *McCalden v. California Library Ass’n* (9th Cir. 1990) 955
21 F2d 1214, 1219; *Ayers v. United States* (6th Cir. 2002) 277 F3d 821, 829 –
22 “alternative pleadings are not disfavored:” Rule 8(a) does not require plaintiff
23 explicitly to designate alternative claims “as long as it can be reasonably inferred
24 that this is what (he or she) was doing.” *Holman v Indiana* (7th Cir. 2000) 211 F3d

1 399, 407; *Coleman v. Standard Life Ins. Co.* (ED CA 2003) 288 F.Supp.2d 1116,
2 1120 (parentheses added). Even if the complaint sets forth a legal theory that
3 cannot support recovery, it is sufficient if the facts alleged support any valid claim;
4 ie., “unless it appears beyond doubt that the plaintiff can prove no set of facts in
5 support of his claim which would entitle him to relief.” See *Conley v. Gibson*
6 (1957) 355 US 41, 45-46.

7 A party may set forth as many separate claims “as it has, regardless of
8 consistency,” provided that all such claims are made in compliance with Rule 11.
9 [FRCP 8(d)(3) (emphasis added); *Independent Enterprises Inc. v. Pittsburgh Water*
10 *& Sewer Authority* (3rd Cir. 1997) 103 F3d 1165, 1175; *Brookhaven Landscape &*
11 *Grading Co., Inc. v. J.F. Barton Contracting Co.* (11th Cir. 1982) 676 F2d 516,
12 523. Plaintiffs may plead two or more inconsistent statements of a claim, even
13 within the same count. *Henry v. Daytop Village, Inc.* (2d Cir. 1994) 42 F3d 89, 95.
14 Neither claim may be construed as an admission to bar alternative or inconsistent
15 claims. *PAE Government Services, Inc. v. MPRI, Inc.* (9th Cir. 2007) 514 F.3d 856
16 (“inconsistent allegations are simply not a basis for striking the pleading”). A
17 party asserting several theories of recovery based on the same set of circumstances
18 may set forth each theory in one count or separate counts. FRCP 8(d)(2); *American*
19 *Int’l Adjustment Co. v. Galvin* (7th Cir. 1996) 86 F3d 1455, 1460 – Rule 8(d)(2)
20 “abolished the doctrine of election of remedies in federal court”.

21 As alleged by Plaintiffs in the First Amended Complaint (“FAC”), the
22 Defendants “breached its duty of due care” and the Defendants were “negligent
23 and careless in the use of their firearms” with William Salgado shot and killed as a
24 result. DOC #12, ¶¶ 27-33, 57-62. Plaintiffs’ FAC pleads all of the following: 1.

1 That in addition to federal law, the FAC is brought “for violations of state law”;
2 (DOC #12 ¶2, p.3, line 15) 2. Under jurisdiction, that the FAC includes a state
3 claim for “Negligent Infliction of Emotional Distress” (DOC #12 ¶5(c), p.4, line
4 17; 3. That Defendants were acting “within the course and scope of their
5 employment, including but not limited to, under California Government Code §§
6 815.2, 820, 825, on or about the October 30, 2022, date of the Incident” (FAC ¶14,
7 p.6, lines 27-28, p.7, line 1); 4. That Defendant CITY is legally responsible for all
8 damages “...caused by the intentional and/or negligent and/or otherwise tortious
9 conduct of Defendants...who shot Decedent...” (FAC ¶14, p.7, lines 2-11); 5. That
10 Defendants “were acting within their capacity as employees, agents,
11 representatives, and servants of Defendants CITY, which is liable under the
12 doctrine of *Respondeat Superior*, pursuant to §§ 815.2, 820, 825 of the California
13 Government Code, et al.” (FAC ¶18, p.8, lines 8-11); 6. In six separate paragraphs
14 in the General Allegations, the FAC alleges that the Plaintiffs “contemporaneously
15 witnessed” the Defendants “shoot Decedent” and “suffered severe emotional
16 distress as a result.” (FAC ¶¶27-32); 7. In the General Allegations, the FAC
17 specifically pleads that the individual Defendants “utilized negligent tactics [and]
18 failed to appropriately warn of use of force and violated Defendant CITY...
19 policies and procedures for use of force including deadly force.” (FAC ¶33, p.11,
20 lines 18-21); 8. The FAC specifically pleads that the individual Defendants
21 “discharged their firearms...negligently” (FAC ¶36, p.12, lines 4-8); 9. In the
22 claim for NIED, the FAC pleads that Defendants “were negligent and careless in
23 their use of firearms” and “were unreasonable in failing to use appropriate tactics,
24 including verbalization, de-escalation, calling for backup, use of less-than-lethal

1 force, techniques and weapons, containment, issuing verbal warnings, and other
2 police tactics before resorting to utilizing deadly force.” (FAC ¶59, p.19, lines 11-
3 17); 10. In the claim for NIED, the FAC pleads that the Defendants “breached its
4 duty of due care” (FAC ¶59, p.19, lines 17-18); 11. In the claim for NIED, the
5 FAC that Plaintiffs “were in the immediate vicinity of Decedent [and]
6 contemporaneously witnessed and perceived the injury producing shooting event
7 incident both visibly and audibly” (FAC ¶60, p.19, lines 26-28); 12. In the NIED
8 claim, the FAC pleads that “at the time of the negligent and deadly conduct of
9 Defendants...Plaintiffs “were contemporaneously aware that the conduct was
10 causing injury to their close relative, son, and brother” because Plaintiffs
11 “contemporaneously witnessed the gunshots and heard the shots fired, and also
12 heard the moaning of Decedent...who was struck with the bullets that caused his
13 death” (FAC ¶61, p.20); 13. The FAC pleads that “as a direct and proximate result
14 of contemporaneously witnessing the injury to Decedent...caused by the negligent
15 and careless conduct of Defendants...Plaintiffs sustained severe emotional distress,
16 including post-traumatic stress disorder (PTSD), psychological trauma, and other
17 damages...” (FAC ¶62, p.20); and 14. Lastly, the Prayer of the FAC, among other
18 things, claims “compensatory general damages for severe emotional distress,
19 anxiety, fear, and all other non-economic damages, in an amount to be proven at
20 the time of trial (FAC p. 21, lines 57).

21 For a 12(b)(6) motion to dismiss, the facts plead in the complaint are to be
22 taken in the light most favorable to the plaintiff. “In ruling on a motion to dismiss
23 under FRCP 12(b)(6), the court must construe the complaint in a light most
24 favorable to the plaintiff, accept all the factual allegations as true, and determine

1 whether the plaintiff undoubtedly can prove no set of facts in support of his claims
2 that would entitle him to relief.” *Sistrunk v. City of StringsVille*, 99 F.3rd 194, 197
3 (6th Cir.1996); *Kline v. Rogers*, 87 F.3rd 176, 179 (6th Cir.1996); *Wright v.*
4 *MetroHealth Med. Ctr.*, 58 F.3rd 1130, 1138 (6th Cir.1995). When an allegation is
5 capable of more than one inference, it must be construed in the plaintiff’s favor.
6 *Columbia Natural Res., Inc. v. Tatum*, 58 F.3rd 1101, 1109 (6th Cir.1995); *In re*
7 *DeLorean Motor Co.*, 991 F.2d 1236, 1240 (6th Cir.1993); *Mayer v. Mylod*, 988
8 F.2d 635, 638 (6th Cir.1993). Hence, a judge may not grant a Rule 12(b)(6) motion
9 based on a disbelief of a complaint’s factual allegations. *Wright*, 58 F.3rd at 1138;
10 *Columbia Natural Res., Inc.*, 58 F.3d at 1109. Therefore, in this case, the inference
11 must be taken that William Castillo is the father of William Salgado and therefore
12 has a right to bring this action for a loss of familial relations, that William
13 Salgado’s adoptive mother also has a claim for loss of familial relations as his
14 mother, that the Decedent’s brothers, father, sister and step mother were close
15 relatives of the Decedent and therefore have standing to bring claims for Negligent
16 Infliction of Emotional Distress.

17 II. THE STATE CLAIMS

18 CACI sets out the elements a Plaintiff must prove to sustain a negligent
19 infliction of emotional distress claim. A Plaintiff making a claim for negligent
20 infliction of emotional distress must show:

- 21 1. That Defendants negligently caused the death of Decedent William Salgado;
- 22 2. That when the shooting that caused the death of William Salgado occurred,
- 23 Plaintiffs were present at the scene;
- 24 3. That Plaintiffs were then aware that the shooting was causing the death of

1 William Salgado;

2 4. That Plaintiffs suffered serious emotional distress; and

3 5. Defendants' conduct was a substantial factor in causing Plaintiffs' serious
4 emotional distress. CACI 1621.

5 Here, Defendants did not raise the issue of whether the first element, that
6 Defendants negligently caused the death of William Salgado. In fact, they did not
7 even bring a summary judgment motion against the Estate in its negligence claims
8 in this case.

9 The 9th Circuit follows the rule that new issues cannot be raised for the first
10 time in reply briefs because it would be unfair to the opposers who have no
11 advantage of briefing the issue. *Nevada v. Watkins* (9th Cir. 1990) 914 F.2d 1545,
12 1560; citing *United States v. Birtle* (9th Cir. 1986) 792 F.2d 846, 848 (quoting
13 *Thompson v. Commissioner* (9th Cir. 1980) 631 F.2d 642, 649, *cert. denied* 452
14 U.S. 961, 101 S. Ct. 3110, 69 L. Ed. 2d 972 (1981)). They have therefore failed to
15 shift the burden to Plaintiff to prove negligence and cannot raise this issue in reply.
16 The focus remains on standing.

17 **A. The Decedent's Father Has Standing to Assert State Law Claims**

18 A plaintiff may recover damages for emotional distress caused by observing
19 the negligently inflicted injury of a third person if the plaintiff is closely related to
20 the victim, is present at the scene of the event at the time it occurs and is then
21 aware that it is causing injury to the victim, and the plaintiff suffers serious
22 emotional distress. *Thing v. La Chusa* (1989) 48 Cal. 3d 644, 668.

23 "Absent exceptional circumstances, recovery should be limited to relatives
24 residing in the same household, or parents, siblings, children, and grandparents

1 of the victim.” *Thing v. La Chusa* (1989) 48 Cal. 3d 644, 668 (*emphasis added*).

2 William Castillo is the biological father of the Decedent and therefore has standing
3 for recovery.

4 Under the Uniform Parentage Act, William Castillo would clearly be found
5 the father of William Salgado in California. Uniform Parentage Act § 7601 holds:

6 “(a) “Natural parent” as used in this code means a
7 nonadoptive parent established under this part, whether
8 biologically related to the child or not.

9 (b) “Parent and child relationship” as used in this part
10 means the legal relationship existing between a child and
11 the child’s natural or adoptive parents incident to which
12 the law confers or imposes rights, privileges, duties, and
13 obligations. The term includes the mother and child
14 relationship and the father and child relationship.

15 (c) This part does not preclude a finding that a child has a
16 parent and child relationship with more than two parents.

17 (d) For purposes of state law, administrative regulations,
18 court rules, government policies, common law, and any
19 other provision or source of law governing the rights,
20 protections, benefits, responsibilities, obligations, and
21 duties of parents, any reference to two parents shall be
22 interpreted to apply to every parent of a child where that
23 child has been found to have more than two parents under
24 this part.”

17 William Castillo is the biological father of Decedent William Salgado and
18 therefore has standing as a close relative to assert claims for negligent infliction of
19 emotional distress. PUMF # 1-6. He raised William Salgado and was there for him
20 throughout his life and into adulthood. PUMF # 7-11. For purposes of NIED,
21 William Castillo need only be a close relative, but he is actually part of William
22 Salgado’s immediate family and his biological father. PUMF # 1-12. This is
23 clearly enough to establish standing, and he will succeed on the merits of his claim,
24 as well.

1 William Castillo was on the balcony overlooking the scene of the shooting at
2 the time that it happened. PUMF # 23. William was then aware that his own son
3 was being shot and killed at the time of the shooting. PUMF # 23. He has suffered
4 severe emotional distress as a result. PUMF # 29-33.

5 With the issues of negligence and Defendants' conduct still in dispute, Oscar
6 is entitled to a trial on the merits of his claim for negligence, including negligent
7 infliction of emotional distress.

8 **B. The Decedent's Brother, Osmar Antonio Castillo Bandon, Has
Standing to Assert State Law Claims.**

9 Likewise, Decedent William Salgado's brother, Osmar Antonio Castillo
10 Bandon ("Osmar") has standing to assert claims for negligent infliction of
11 emotional distress.

12 "Absent exceptional circumstances, recovery should be limited to relatives
13 residing in the same household, or parents, siblings, children, and grandparents
14 of the victim." *Thing v. La Chusa* (1989) 48 Cal. 3d 644, 668 (*emphasis added*).

15 Osmar is Decedent William Salgado's brother by blood, and therefore has
16 standing to assert claims for negligent infliction of emotional distress. PUMF # 20,
17 24. Osmar was on a balcony overlooking the scene of the incident when his
18 brother, Decedent William Salgado, was shot. PUMF # 23, 26. He was then aware
19 that his brother was being killed. PUMF # 23, 34, 36, 38, 39. As a result, Oscar
20 Ernesto Castillo suffered severe emotional distress. PUMF # 34-39.

21 With the issues of negligence and Defendants' conduct still in dispute, Oscar
22 is entitled to a trial on the merits of his claim for negligence, including negligent
23 infliction of emotional distress.

C. The Decedent's Youngest Brother, O.C.E., and Step-Mom Have Standing to Assert State Law Claims.

Decedent William Salgado's youngest brother, O.C.E., and step-mom, Eugenia Espinoza, have standing to assert claims for negligent infliction of emotional distress.

"Absent exceptional circumstances, recovery should be limited to relatives residing in the same household, or parents, siblings, children, and grandparents of the victim." *Thing v. La Chusa* (1989) 48 Cal. 3d 644, 668 (*emphasis added*). A Plaintiff bystander does not have to actually witness the infliction of injury, provided that the Plaintiff was at the scene of the accident and sensorially aware of the accident and the necessarily inflicted injury. *Wilks v. Hom*, 2 Cal.App.4th 1267, 1271.

O.C.E. is Decedent's youngest brother and therefore is a close relative with standing to make a claim for negligent infliction of emotional distress. PUMF # 19, 20. He was present at the scene at the time of the shooting and he heard the shots. PUMF # 26, 27. He knew where the Decedent was at the time of the shooting and who was being shot at the time of the shooting. PUMF # 27. At the time of the shooting, O.C.E. thought to himself that the police had just killed his brother. PUMF # 27. He was then aware that his brother was being killed. PUMF # 27. As a result, O.C.E. suffered severe emotional distress. PUMF # 23, 25-27.

Eugenia Espinoza, Decedent's step-mom, had a close relationship with the Decedent and is therefore a close relative with standing to make a claim for negligent infliction of emotional distress. PUMF # 22. She was with Osmar in the apartment at the time of the shooting, and also knew where Decedent was at the

1 time of the shooting. PUMF # 23. She was then aware that Decedent William
2 Salgado was being killed, and suffered severe emotional distress as a result.

3 With the issues of negligence and Defendants' conduct still in dispute,
4 O.C.E. and Eugenia Espinoza are entitled to a trial on the merits for their claims
5 for negligence, including negligent infliction of emotional distress.

6 **D. Plaintiffs Concede that Juana Miranda and Karla Blandon Were Not**
7 **Present at the Scene and Therefore Likely Cannot Assert Negligent**
8 **Infliction of Emotional Distress Claim.**

9 Juana Miranda and Karla Vanessa Blandon were not present at the scene at
10 the time of the shooting of William Salgado, and therefore likely cannot assert
11 their negligent infliction of emotional distress claim. In recognition of this
12 likelihood, Plaintiffs' counsel offered to dismiss these claims, but Defense counsel
13 preferred to file the MSJ.

14 **Regardless, Juana Miranda may still have standing under the**
15 **Fourteenth Amendment for Loss of Familial Relations.**

16 **III. FOURTEENTH AMENDMENT CLAIMS**

17 Parents have a constitutionally protected right to companionship of a child.
18 *Johnson v. Bay Area Rapid Transit Dist.*, (9th Cir. 2013) 724 F.3d 1159, 1169;
19 *Smith v. City of Fontana*, 818 F.2d 1411, 1418 (9th Cir. 1987), *overruled on other*
20 *grounds by Hodgers-Durgin v. de la Vina*, 199 F.3d 1037 (9th Cir. 1999) (en
21 banc). This liberty interest is rooted in the Fourteenth Amendment, which states in
22 relevant part that "[n]o State shall . . . deprive any person of life, liberty, or
23 property, without due process of law." U.S. Const. amend. XIV, § 1. State
24 interference with these liberty interests may give rise to a Fourteenth Amendment
due process claim that is cognizable under 42 U.S.C. § 1983. *Kelson v. City of*

1 *Springfield*, 767 F.2d 651, 654 (9th Cir. 1985), *overruled on other grounds by*
2 *Daniels v. Williams*, 474 U.S. 327, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986)).

3 Here, both the Decedent's Father, William Castillo, and the Decedent's
4 adoptive mother, Juana Maria Miranda ("Juana Miranda"), had relationships with
5 William Salgado which reflected the assumption of parental responsibility. PUMF
6 # 9-17, 22, 28. Plaintiff has at the very least shown that the issue of the decedent's
7 relationship with his father and his adoptive mother is disputed and therefore this
8 Motion for Summary Judgment does not dispose of the Plaintiff's claims on that
9 basis and the MSJ should be denied.

10 **A. The Decedent's Father Has Standing to Assert Fourteenth Amendment**
11 **Claims.**

12 The constitutionally protected right to companionship is independently held
13 by both the parent and child. *Smith v. City of Fontana*, (9th Cir. 1987) 818 F.2d
14 1411, 1418. A parent's right includes a companionship interest even after a child
15 reaches the age of majority. *Id.* at 1419; *see, e.g., Strandberg v. City of Helena*, 791
16 F.2d 744, 748 n.1 (9th Cir. 1986) (recognizing that parents of deceased 22-year-old
son could claim violation of right to companionship and society).

17 The Ninth Circuit has recognized that a parent has a constitutionally
18 protected interest in companionship and society with their child. *Khachatryan v.*
19 *Blinken* (9th Cir. 2021) 4 F.4th 841, 863; *citing Lee v. City of Los Angeles*, 250 F.3d
20 668, 685 (9th Cir. 2001) (recognizing that a parent's fundamental liberty interest in
21 the companionship of a child is "well established" and logically extends to protect
22 a child's interest in a parent's companionship); *Ward v. City of San Jose*, 967 F.2d
23 280, 283 (9th Cir. 1991) (recognizing that familial relationship between parent and
24

1 child gave rise to due process action in *Smith*); *Wheeler v. City of Santa Clara*, 894
2 F.3d 1046, 1058 (9th Cir. 2018) ("[C]hildren's Fourteenth Amendment rights to
3 companionship with their parents have been interpreted as reciprocal to their
4 parents' rights."); *Johnson v. Bay Area Rapid Transit Dist.*, 724 F.3d 1159, 1169
5 (9th Cir. 2013)."

6 In order to bring a Fourteenth Amendment due process claim, the parent and
7 child must have relationships "which reflect some assumption 'of parental
8 responsibility.'" *Kirkpatrick v. County of Washoe*, 843 F.3d 784, 789 (9th Cir.
9 2016) (en banc).

10 Here, it is clear that William Castillo assumed the responsibilities of a
11 parent, as set out in Plaintiffs' Separate Statement of Undisputed Material Facts.
12 PUMF # 1-17, 22.

13 Defendants assert the present case is like *Wheeler v. City of Santa Clara*,
14 894 F.3d 1046, 1058 (9th Cir. 2018), where the Court did not extend 14th
15 Amendment rights to the father of a child who had been adopted out when they
16 were young. The present case is distinguished from *Wheeler*. In *Wheeler*, the
17 biological father only had a close relationship with his child for part of their
18 childhood and it is unclear who the child was adopted out to. While it was called
19 an "adoption," William Salgado was not legally adopted, or with a notary or with
20 signed papers; William Omar Castillo Miranda's mother offered to 'help him' so
21 that he could help the family financially. PUMF # 15. The father explicitly retained
22 his parental responsibility and was merely seeking assistance from his own parents
23 in the raising of his child. PUMF # 1-11, 16, 17. It is common for grandparents to
24 assist in various amounts in raising their grandchildren. However, William Castillo

1 was always recognized as the father by the adoptive mother of William Salgado
2 and the siblings of William Salgado and continued to have a close relationship with
3 his child throughout their childhood and life. PUMF # 1-11, 16, 17. Nobody in
4 William Castillo's life disputes that William Castillo is the father of William
5 Salgado. PUMF # 1-11, 16, 17. In fact, the Decedent's sister Karla, had no
6 knowledge that Decedent William Salgado was ever adopted, and was never told
7 as such by anyone. PUMF # 21.

8 In addition to maintaining a close relationship with William Salgado
9 throughout his life and raising him as his son, William Castillo even lived with the
10 Decedent at the time of William Salgado's death. PUMF # 22.

11 In *Fosbinder v. Cty. Of San Diego*, 2024 U.S. Dist. LEXIS 197571, the
12 father of an adult son decedent lived across the country from his son prior to his
13 death, with the father living in a home in Florida while the son was homeless in
14 California. The District Court for the Southern District of California found this
15 relationship to be sufficient for standing and distinguishable from *Wheeler*. In the
16 case at hand, the father not only was close to the son throughout his life, but lived
17 with him at the time of his son's death. PUMF # 22. He even witnessed his son's
18 death due to the fact that they lived together at the time of the shooting. PUMF #
19 22, 23.

20 In this case, William Castillo is the biological father of the Decedent
21 William Salgado. PUMF # 1-11. In addition, here, the Decedent actually did live
22 with his father near the end of his life, had a close relationship with his father, his
23 father always held himself out as the father of the Decedent, and William Salgado
24 always recognized William Castillo as his father. PUMF # 1-11, 22. Put simply,

1 Castillo remained in his life as his father, helped raise him, and held himself out as
2 the father. PUMF # 1-11, 22. This is sufficient for a finding that William Castillo is
3 the father for purposes of loss of familial relations.

4 At the same time, California follows the Uniform Parentage Act, where there
5 is a strong public policy favoring the finding of parent-child relationships for the
6 purposes of asserting rights and responsibilities.

7 Under the Uniform Parentage Act § 7610:

8 The parent and child relationship may be established as
9 follows:

10 (a) Between a child and the natural parent, it may be
11 established by proof of having given birth to the child, or
12 under this part.

13 (b) Between a child and an adoptive parent, it may be
14 established by proof of adoption.

15 *Uniform Parentage Act § 7610 (Amended by Stats. 2013,*
16 *Ch. 510, Sec. 2. (AB 1403) Effective January 1, 2014.)*

17 Under this definition, it is clear that William Castillo is William Salgado's
18 father. He is the natural, biological parent of William Salgado, and that is enough
19 to prove a parent-child relationship under the Uniform Parentage Act in the State
20 of California.

21 **B. The Decedent's Informal Adoptive Mother Has Standing to Assert**
22 **Fourteenth Amendment Claims**

23 Adoptive mothers have been found to have rights under the Fourteenth
24 Amendment. *Tylene M. v. Heartshare Children's Servs.* (S.D.N.Y. 2005) 390 F.
Supp. 2d 296, 319. Here, there is evidence to show that Juana Miranda, the
grandmother, may be Decedent's informal adoptive mother and assisted in raising
William Salgado and therefore has rights to a loss of familial relations claim under
the Fourteenth Amendment. PUMF # 13-15

1 At the same time, California follows the Uniform Parentage Act, where there
2 is a strong public policy favoring the finding of parent-child relationships for the
3 purposes of asserting rights and responsibilities.

4 Under the Uniform Parentage Act § 7610:

5 The parent and child relationship may be established as
6 follows:

7 (a) Between a child and the natural parent, it may be
8 established by proof of having given birth to the child, or
9 under this part.

10 (b) Between a child and an adoptive parent, it may be
11 established by proof of adoption.

12 *Uniform Parentage Act § 7610 (Amended by Stats. 2013,*
13 *Ch. 510, Sec. 2. (AB 1403) Effective January 1, 2014.)*

14 Under this statute, it is possible Juana Miranda established a parent-child
15 relationship, and therefore she is entitled to the rights of a parent as well. That
16 William Castillo is the father of William Salgado does not conflict with this right;
17 the Uniform Parentage Act does not preclude a finding that a child has a parent-
18 child relationship with more than two parents. *Uniform Parentage Act §7601(b).*

19 **C. Plaintiffs Concede that the Siblings of the Decedent May Not Have
20 Standing to Assert Fourteenth Amendment Claims.**

21 Plaintiffs concede that the sibling Plaintiffs may not have standing to assert
22 14th Amendment Claims. **However, these Plaintiffs, with the exception of Karla**
23 **Blandon, do qualify and do have standing under state law claims for negligent**
24 **infliction of emotional distress.**

//

//

//

//

1 IV. **CONCLUSION**

2 For the above stated reasons, Plaintiffs respectfully request that the Court
3 **DENY** Defendants' Motion for Summary Judgment.

4
5 Dated: March 11, 2025

CARRAZCO LAW, A.P.C.

/S/ KENT M. HENDERSON

7 BY:

8 _____
9 ANGEL CARRAZCO, JR.
10 KENT M. HENDERSON, of counsel
11 CHRISTOPHER L. HOLM
12 Attorneys for Plaintiffs
13
14
15
16
17
18
19
20
21
22
23
24